

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RURAL & MIGRANT MINISTRY, INC.,
ALIANZA NACIONAL DE CAMPESINAS, EL
COMITE DE APOYO A LOS
TRABAJADORES AGRÍCOLAS,
FARMWORKER ASSOCIATION OF
FLORIDA, MIGRANT CLINICIANS
NETWORK, PINEROS Y CAMPESINOS
UNIDOS DEL NOROESTE, RURAL
COALITION, UNITED FARM WORKERS,
UNITED FARM WORKERS FOUNDATION,

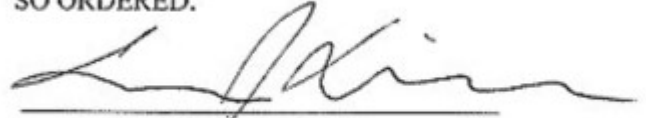
Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY and Andrew Wheeler,
in his official capacity as Administrator of the
United States Environmental Protection Agency,

Defendants.

SO ORDERED.



LEWIS J. LIMAN
United States District Judge

12/18/2020

Civil Action No. 1:20-cv-10645-LJL¹

**PROPOSED ORDER TO SHOW CAUSE FOR EMERGENCY RELIEF PURSUANT TO
FED. R. CIV. P. 65 AND 5 U.S.C. § 705**

Upon reading the supporting Memorandum of Law; the supporting Declaration of Carrie Apfel and the exhibits annexed thereto; the sworn declarations of (1) Mily Trevino-Sauceda; (2) Nezahualcoyotl Xiuhtecutli; (3) William Jordan; (4) Amy Liebman; (5) Reyna Lopez; (6) Richard Witt; (7) Lorette Picciano; (8) Eriberto Fernandez; (9) Teresa Romero; and (10) Jessica Culley; the pleadings and papers on file in this action, and upon due deliberation, it is hereby **ORDERED** as follows:

¹ This case has been referred as potentially related to *New York et. al., v. U.S. Environmental Protection Agency*, No. 20-cv-10642, though a determination has not yet been made.

It is **ORDERED** that Defendants U.S. Environmental Protection Agency and Andrew Wheeler, in his official capacity as Administrator of the U.S. Environmental Protection Agency (Defendants), show cause by filing a response to this Order with the Southern District of New York by December 22, 2020, at 5 p.m. concerning: (1) why Plaintiffs should not be granted a temporary restraining order and/or preliminary injunction, pursuant to Fed. R. Civ. P. 65, to enjoin Defendants, and those in concert with them including State agencies responsible for implementing federal pesticide regulations, from implementing, applying, or taking any action under the Final Rule, Pesticides; Agricultural Worker Protection Standard; Revision of the Application Exclusion Zone Requirements, 85 Fed. Reg. 68,760-01 (Oct. 30, 2020), which goes into effect on December 29, 2020; (2) why the Fed. R. Civ. P. 65(c) security requirement should not be waived because no costs or damages will flow from maintaining the status quo, *see Doctor's Assocs., Inc. v. Distajo*, 107 F.3d 126, 136 (2d Cir. 1997); and (3) why Plaintiffs should not be granted a stay postponing the effective date of the Final Rule, pursuant to 5 U.S.C. § 705, until this case is decided on the merits and final judgment is entered.

Plaintiffs petitioned Defendants for an administrative stay of the effective date of the Final Rule pending judicial review under 5 U.S.C. § 705 on December 4, 2020, and requested a response by December 14, 2020. The petition is attached as Exhibit 13 to the Declaration of Carrie Apfel. Defendants have thus far not responded to Plaintiffs' petition. In the petition, Plaintiffs notified Defendants that if an administrative stay were not granted, they would seek a court stay of the rule.

It is further ordered that Plaintiffs and Defendants shall appear for a teleconference before the Court for oral argument on Plaintiffs' proposed Order on December 23, 2020, at 5:00 p.m. Parties are directed to dial 888-251-2909 and use the access code 2123101.

Respectfully submitted,

DATED: December 18, 2020

/s/ Eve Gartner

Eve Gartner

Surbhi Sarang

Kara Goad (*Pro Hac Vice motion to be submitted*)

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